



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Physical Sciences Inc.

File: B-236848

Date: January 10, 1990

DIGEST

1. Protest that contracting agency excessively downgraded proposal by overemphasizing slight weakness is denied where record shows that agency considered the weakness significant and the evaluation of the proposal was consistent with the criteria set forth in the solicitation.
2. In a negotiated procurement the contracting agency has broad discretion in making cost/technical tradeoffs. Award to higher rated offeror with higher proposed costs is not objectionable where agency reasonably concluded that cost premium involved was justified considering the technical superiority of the selected offeror's proposal.
3. Protest that contracting agency improperly considered cost savings resulting from recent award of two related contracts to one of the offerors is denied where there is no evidence that these awards were considered during the evaluation.

DECISION

Physical Sciences Inc. protests the award of a contract to Hughes Aircraft Company under request for proposals (RFP) No. F30602-89-R-0076, issued by the Department of the Air Force to develop techniques for laser cleaning of optical surfaces. Physical Sciences contends that the Air Force incorrectly evaluated its proposal and arbitrarily selected a higher rated but more costly proposal.

We deny the protest.

The RFP contemplated the award of a cost-plus-incentive-fee contract. It provided that award would be made on the basis of the proposal determined to contain the combination of technical and cost features representing the best overall value to the government. Technical factors were more

047466/140390

important than cost. The technical evaluation areas, listed in descending order of importance, were laser gun design, laser removal trade study, optimization of laser removal technique, and laser removal demonstration. Each of these technical areas was to be evaluated based on the offeror's understanding of the effort, soundness of approach, compliance with requirements and innovation.

The agency received three proposals by the May 1, 1989, due date. The proposals were rated under the technical factors according to a color system. A rating of blue was exceptional, green (acceptable), yellow (unacceptable but capable of being corrected), and red (unacceptable). Proposals also received an overall color rating. Only Physical Sciences and Hughes were determined to be in the competitive range. After best and final offers, Hughes received a rating of blue under the first three areas, green in the remaining area, and an overall rating of blue. The protester received ratings of green in all areas with an overall rating of green. The awardee's final proposed cost was \$1,032,604 while Physical Sciences proposed a final cost of \$784,249. The agency determined that Hughes' superior technical proposal outweighed its higher cost and made award to that firm.

Physical Sciences contends that the agency overemphasized the technical risk in the approach it proposed resulting in an incorrect application of the evaluation criteria. The protester further argues that Hughes' only slightly superior technical proposal did not justify award to it at a significantly higher cost. Additionally, according to Physical Sciences, Hughes was recently awarded two other contracts which are closely related technically to this one. The protester believes the agency improperly considered the overlap in technical requirements and the resulting cost savings when evaluating Hughes' proposal under this solicitation. After examining the record, we find the Air Force's evaluation was reasonable and consistent with the solicitation's evaluation criteria.

In reviewing protests against the propriety of an agency evaluation of proposals, it is not the function of our Office to independently evaluate those proposals. Ira T. Finley Inv., B-222432, July 25, 1986, 86-2 CPD ¶ 112. Rather, the determination of the relative desirability and technical adequacy of the proposals is primarily a function of the procuring agency which enjoys a reasonable range of discretion. AT&T Technology Sys., B-220052, Jan. 17, 1986, 86-1 CPD ¶ 57. Consequently, we will question an agency's technical evaluation only where the record clearly shows that the evaluation does not have a reasonable basis or is

inconsistent with the evaluation criteria listed in the RFP. See American Educ. Complex Sys., B-228584, Jan. 13, 1988, 88-1 CPD ¶ 30. The fact that the protester disagrees with the agency does not itself render the evaluation unreasonable. ESCO, Inc., 66 Comp. Gen. 404 (1987), 87-1 CPD ¶ 450.

With respect to the evaluation of the risk of its approach, Physical Sciences asserts that it adequately addressed the agency's concerns in its response to the agency's written questions during negotiations. The protester also asserts that the agency excessively downgraded its proposal by overemphasizing a slight risk.

According to the agency, although there were several weaknesses in Physical Sciences' proposal, its primary area of concern was the soundness of the firm's approach. The record indicates that the evaluators were concerned with the protester's plan to have part of the work done at their own facility in Boston, Massachusetts, and part at their subcontractor's facility in Azusa, California. The agency believed the protester's proposed use of two facilities had the potential for producing inconsistent technical results due to variables such as two different cryogenic chambers and two different technical teams.

We do not believe the record supports a conclusion that the agency was unreasonable in finding Physical Sciences' proposal weak in this area. We think the agency's concern that two different test facilities with different cryogenic chambers and technical teams adds to the risk of the program by introducing additional variables and possible untraceable contaminants is valid. Further the protester has offered no specific arguments which dispute the agency's technical judgment in this regard. Also the agency's evaluation documents indicate that the protester's responses to its questions did not diminish its concerns since the agency found the firm essentially failed to show how it would reduce the risk of these variables. We therefore find no basis in the record to question the agency's judgment in this matter.

We find no evidence in the record that the agency placed undue emphasis on this weakness in evaluating the protester's proposal. The evaluation documents show that although the protester received a yellow, or unacceptable rating under soundness of approach because of its use of two facilities in the area of laser removal demonstration, its rating for that area was green, based on its receiving acceptable ratings in the areas other categories. The record shows the protester received an overall rating of

green because it met the solicitation's requirements. On the other hand, the evaluators concluded that Hughes' proposal was exceptional or blue based on factors such as the number of laser gun approaches proposed, superior capability in laser gun design and fabrication capability. Thus, it appears that the difference in the technical ratings between the two proposals was due as much to the evaluators' conclusion that Hughes' proposal was technically outstanding as to the perceived weaknesses in the Physical Sciences' proposal.

The protester also argues that the difference in technical proposals was not so significant as to justify award to Hughes at a substantially higher cost. Physical Sciences notes that its proposed costs were over 30 percent lower than Hughes' and complains that no objective method was used to make the decision that this cost savings was outweighed by Hughes' higher technical score.

A contracting agency has broad discretion in making cost/technical tradeoffs, the extent of which is governed only by the tests of rationality and consistency with the established evaluation criteria. Tracor Marine, Inc., B-226995, July 27, 1987, 87-2 CPD ¶ 92. We have upheld awards to higher rated offerors with significantly higher proposed costs where the agency reasonably determined that the cost premium involved was justified considering the significant technical superiority of the selected offeror's proposal. See University of Dayton Research Inst., B-227115, Aug. 19, 1987, 87-2 CPD ¶ 178.

Here, the RFP specifically provided that the government was more concerned with obtaining superior technical features than with making award at the lowest cost. Although, as noted by the protester, the RFP also provided that the government would not make an award at a significantly higher overall cost to achieve only slightly superior technical features, the record shows that the agency specifically determined Hughes' proposal was significantly superior technically based on its superior capability in laser gun design, the most important factor, its overall in-depth knowledge and experience, and the lower risk of Hughes' one facility approach and that this superiority more than offset Physical Sciences' cost advantage. Consequently, we think the agency's award to Hughes based on its technical superiority was consistent with the evaluation criteria.

Concerning the protester's complaint that no objective method was used to make the cost/technical tradeoff, there is no requirement that agencies use a set formula to select the awardee. Here, we have carefully reviewed the agency's

cost/technical selection memorandum and as we explained earlier we found that the explanation for the selection was rational and consistent with the solicitation's evaluation criteria. Nothing further is required. Tracor Marine Inc., B-226995, supra.

Finally, the protester argues that in evaluating proposals the agency improperly took into account the recent award to Hughes of two contracts closely related technically to this one. Physical Sciences contends that the agency incorrectly considered the overlap in technical requirements and the cost savings that would result if Hughes were also awarded this contract.

The agency denies that this was the case. According to the agency it intentionally separated the procurements in order to award three separate and independent contracts, and that great care was taken to ensure that the procurements were evaluated independently of each other. Since we can find no evidence in the record that the evaluators considered the other two contracts in the evaluation, we have no basis to question the agency in this regard.

The protest is denied.

for *Seymour E. Hinchman*
James F. Hinchman
General Counsel